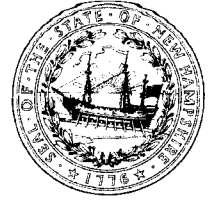




The State of New Hampshire  
**Department of Environmental Services**



**Michael P. Nolin**  
Commissioner

Douglas and Susan Patteson  
732 Province Road  
Strafford, NH 03042

Re: Replacement Septic System Installation

**ADMINISTRATIVE ORDER**  
**No. WD 06-034**

August 7, 2006

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division to Douglas and Susan Patteson pursuant to RSA 485-A:29-44. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. Douglas and Susan Patteson are individuals having a mailing address of 732 Province Road, Strafford, New Hampshire 03884.

**C. STATEMENTS OF FACTS AND LAW**

1. RSA 485-A:29-44 authorizes DES to regulate the subdivision of land and the construction, maintenance, and repair/replacement of individual sewage disposal systems ("septic systems"). Pursuant to rulemaking authority conferred therein, the Commissioner of DES has adopted Env-Ws 1000 to implement this program.
2. Douglas and Susan Patteson are owners of property located at 732 Province Road, Strafford, New Hampshire 03884 ("the Property").
3. Env-Ws 1003.10 sets out the requirements for repair or replacement of existing septic systems.
4. Env-Ws 1003.10(a) states that septic systems serving non-commercial buildings may be repaired or replaced "in kind" without submission of plans. "In kind" is defined to mean that the size, location, depth and type of system will not change, nor the flow increase.
5. Env-Ws 1003.10(c) states that, if the effluent disposal portion of the septic system is closer than 24 inches to the seasonal high water table, plans must be submitted by a licensed designer for a new septic system for the property.

6. In July, 2001, and again in 2005, the leachfield on the Property was found to be functioning poorly. Douglas and Susan Patteson, by letter dated May 23, 2006, stated that Mr. Paul Gatchell, a licensed septic installer, replaced the existing septic system "in kind" on the property.
7. As part of the replacement of a septic system "in kind", Env-Ws 1003.10(i) requires the septic system installer to submit test pit data. The purpose of the test pit is to prove that the septic system can be replaced "in kind" while remaining at least 24 inches above the prevailing seasonal high water table.
8. The test pit data for the 2001 replacement was not submitted to DES until 2006. No data was submitted for the second replacement, performed in 2005.
9. The only test pit data submitted by the installer of the system on this property showed that the seasonal high water table is at 27 inches. It is impossible to install a septic system in ground, with several inches of cover over the top of the system that could maintain 24 inches above the seasonal high water table, as required.
10. Based on the data provided, the septic system on the property should not have been replaced "in kind." A new septic system plan should have been submitted for review and approval by DES.

#### **D. DETERMINATION OF VIOLATIONS**

1. Douglas and Susan Patteson have violated RSA 485-A:29 and Env-Ws 1003.10 by having a septic system replaced "in kind" on the property when the test pit data submitted to DES clearly indicates that the effluent disposal portion of the septic system must be closer than 24 inches to the seasonal high water table.

#### **E. ORDER**

Based on the above findings, DES hereby orders Douglas and Susan Patteson as follows:

1. **Within 60 days of the date of this Order**, engage a permitted septic system designer to prepare and submit septic system plans and specifications to DES for the total waste load generated on the Property.
2. **Within 30 days from the date of approval** to construct the system, issued by DES:
  - a. Construct and obtain approval to cover and use the system.
  - b. Operate and maintain the system in accordance with NH Administrative Rule Env-Ws 1023.

3. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Richard J. de Seve, Compliance Supervisor, Subsurface Systems Bureau  
DES Water Division  
P.O. Box 95  
Concord, NH 03302-0095  
Fax: (603) 271-3442  
e-mail: rdeseve@des.state.nh.us


#### F. APPEAL


Any person aggrieved by this Order may appeal the Order to the New Hampshire Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Douglas and Susan Patteson of the obligation to comply with the Order.

#### G. OTHER PROVISIONS

Please note that RSA 485-A:43 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Douglas and Susan Patteson remain obligated to comply with all applicable requirements, in particular the requirement to submit plans for a new septic system approval to DES and to install and maintain such system. DES will continue to monitor Douglas and Susan Patteson's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Strafford County Registry of Deeds so as to run with the land.

  
Harry T. Stewart, P.E., Director  
Water Division

  
Michael R. Nolin, Commissioner  
Department of Environmental Services

**Certified Mail/RRR: 7099 3400 0002 9772 9684**

cc: Gretchen Hamel, Legal Unit Administrator /  
Public Information Officer, DES PIP Office  
Jennifer Patterson, Sr. Asst. Attorney General, NHDOJ/EPB  
Town of Strafford Board of Selectmen  
S. Smith, Code Enforcement Officer, Town of Strafford